



Minnesota Pollution Control Agency

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June 23, 2010

Dr. Susan Hedman, Regional Administrator
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

RECEIVED

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U.S. EPA REGIONAL OFFICE
OFFICE OF REGIONAL ADMINISTRATION

Dear Dr. Hedman:

On June 3, 2010, the "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" was published in the *Federal Register*. This rule defines permit thresholds for greenhouse gases (GHGs). In it, U.S. Environmental Protection Agency (EPA) asks states to provide information by August 2, 2010, regarding how they will implement New Source Review/Prevention of Significant Deterioration (NSR/PSD) and Part 70 permitting programs for GHGs. The purpose of this letter is to describe the state of Minnesota's plan to implement the Tailoring Rule.

The Tailoring Rule asks states to explain whether they will apply the meaning of the term "subject to regulation" established by EPA to their PSD and Part 70 permit programs. As you are probably aware, Minnesota is a delegated state for the PSD program. The new federal PSD permit threshold, therefore, is effective here immediately. No changes to state rules are needed to apply the federal GHG permit threshold to our PSD permits.

The situation for Minnesota's Part 70 permit program is different. Because of the language in the rule, we are unable to take advantage of the new definition of "subject to regulation" to avoid modifying our Part 70 permit rule and State Implementation Plan(s) (SIP) approved operating permit program. To determine the applicability of the Part 70 program, Minnesota Rules refer to and mirror the definition of a major source in the Clean Air Act. Additionally, Minnesota's Part 70 permitting rule sets the permit threshold as 100 tons per year. The applicable rule part is as follows.

7007.0200 SOURCES REQUIRED OR ALLOWED TO OBTAIN A PART 70 PERMIT.

Subp 2B A major stationary source of air pollutants, as defined in section 302 of the act (General Provisions; Definitions), that directly emits or has the potential to emit, 100 tons per year or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the administrator).

Section 302(j) of the 1990 Clean Air Act Amendments reads as follows.

(j) Except as otherwise expressly provided, the terms "major stationary source" and "major emitting facility" mean any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

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The Minnesota Pollution Control Agency (MPCA) proposes to revise the applicability in Minn. R. 7007.0200 to reflect the new Part 70 permit threshold for GHGs. Additionally, various rule requirements for state-only permits may need to be modified to ensure that facilities remain minor sources. The sections of Minnesota's rules that are most likely to be amended are Minn. R. chs. 7005 (Definitions and Abbreviations) and 7007 (Air Permitting).

We anticipate using an expedited rulemaking process under Minn. Stat. § 14.388 to implement the Part 70 GHG permit threshold and make related revisions. We expect that the expedited rulemaking process will be completed prior to January 2, 2011, the effective date of the federal permit rule.

Rules passed using this expedited process are only effective for two years. Therefore, the MPCA will begin a traditional rulemaking process starting in early 2011 to make the temporary rule changes permanent. State rule changes typically take approximately 18-24 months to process. We expect that these permanent rules would be completed in mid- to late 2012. A SIP approval process of the revised rules will follow as quickly as resources and time permit.

If you have any questions on Minnesota's plan to implement the Tailoring Rule, please contact Barbara Jean Conti of my staff at 651-757-2288.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Eger". The signature is fluid and cursive, with the first name "Paul" and last name "Eger" clearly distinguishable.

Paul Eger
Commissioner

PE/BC:jab